



**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
**Two Gateway Center**  
**Newark, NJ 07102**  
**[www.bpu.state.nj.us](http://www.bpu.state.nj.us)**

CABLE TELEVISION

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IN THE MATTER OF THE PETITION OF CABLEVISION )  
OF NEW JERSEY, INC., FOR RENEWAL OF A )  
CERTIFICATE OF APPROVAL TO CONTINUE TO )  
OPERATE AND MAINTAIN A CABLE TELEVISION )  
SYSTEM IN AND FOR THE BOROUGH OF PARAMUS, )  
COUNTY OF BERGEN, STATE OF NEW JERSEY )

RENEWAL  
CERTIFICATE OF APPROVAL

DOCKET NO. CE99020101

Schenck, Price, Smith & King, Morristown, New Jersey, by Sidney A. Sayovitz, Esq., for the Petitioner.

Borough Clerk, Borough of Paramus, New Jersey, by Ian I. Shore, for the Borough.

BY THE BOARD<sup>1</sup>:

On September 28, 1988, the Board granted Cablevision Systems Corporation, d/b/a Cablevision of New Jersey ("Petitioner") a Certificate of Approval in Docket No. 777C-6308 for the construction, operation and maintenance of a cable television system in the Borough of Paramus ("Borough"). On July 18, 1989, the Board approved the renewal of the Petitioner's Certificate of Approval in Docket No. CE89030287. Although the Petitioner's above referenced Certificate expired on September 28, 1998, it is authorized to continue to provide cable television service to the Borough pursuant to N.J.S.A. 48:5A-25, pending disposition of proceedings regarding the renewal of its Certificate of Approval.

The Petitioner filed an application for the renewal of its municipal consent with the Borough on June 5, 1998, pursuant to N.J.S.A. 48:5A-23 and N.J.A.C. 14:18-13. The Borough, after a public hearing, adopted an ordinance granting renewal municipal consent to the Petitioner on December 15, 1998. The Petitioner formally accepted the terms and conditions of the ordinance on December 23, 1998, in accordance with N.J.S.A. 48:5A-24.

<sup>1</sup> Commissioner Carol J. Murphy did not participate in the deliberations or vote on this matter.

On February 11, 1999, pursuant to N.J.S.A. 48:5A-16, the Petitioner filed with the Board for a renewal of its Certificate of Approval for the Borough. The Board has reviewed the application for municipal consent, the petition for a Renewal Certificate of Approval and the municipal consent ordinance. Based upon this review and the recommendation of the Office of Cable Television, the Board HEREBY FINDS the following:

1. The Petitioner possesses the requisite legal, character, financial and technical qualifications for the awarding of a Certificate of Approval. Further, the Borough reviewed these qualifications in conjunction with the municipal consent process. See N.J.S.A. 48:5A-22 to 29 and N.J.A.C. 14:18-13.1 et seq.
2. The design and technical specifications of the system shall ensure that the Petitioner provides safe, adequate and proper service.
3. The Petitioner has represented that all previously required construction within the franchise territory is complete.
4. The franchise period as stated in the ordinance is for a period of five years with an automatic renewal provision for a term of five years thereafter pursuant to N.J.S.A. 48:5A-19 and -25. The Board finds these periods to be of reasonable duration.
5. The automatic renewal term of five years shall be based on the review of the ordinance by the Borough. The Petitioner shall notify the Borough of its right to review the ordinance one year prior to the expiration of this Certificate. Any review by the Borough should be completed within six months of the notice. Upon expiration of the six month review period, if the Borough does not find that the Petitioner has not complied with the terms and conditions of the ordinance, with its findings being forwarded to the Board for appropriate administrative action, then the automatic renewal term of five years will be applicable. Any findings of non-compliance from the Borough shall be forwarded to the Board for appropriate administrative proceedings.
6. The Petitioner shall provide cable television service to all residential areas of the Borough at standard and non-standard installation rates. The Petitioner will utilize the line extension policy (Appendix "I") for all commercial areas and residential subscribers in a commercial area. The minimum home per mile ("HPM") figure is 20.
7. The Petitioner's rates shall be regulated and tariffs shall be filed for all services, in accordance with the rules and regulations of the Federal Communications Commission, the Board and the Office of Cable Television. The Petitioner shall maintain informational tariffs for unregulated service rates, and promptly file any revisions thereto.
8. Pursuant to N.J.S.A. 48:5A-26(a), the ordinance specifies a complaint officer. In this case, it is the Borough Clerk. All complaints shall be received and processed in accordance with N.J.A.C. 14:17-6.5.
9. The Petitioner will maintain a local business office for the purpose of receiving, investigating and resolving complaints. The current office is located at 5 Legion Drive in the Borough of Cresskill, New Jersey.

10. The franchise fee to be paid to the Borough is specified to be 2% of the Petitioner's gross revenues from all recurring charges in the nature of subscription fees paid by subscribers for cable television reception service in the Borough. Additional regulatory fees shall be paid to the State in an amount not to exceed 2% of Petitioner's gross operating revenues derived from intrastate operations. The Board finds these fees to be reasonable.
11. The Petitioner shall provide public, educational, and governmental ("PEG") access channels, training courses and facilities in accordance with its renewal application and the ordinance. The Petitioner shall provide one shared governmental and public access channel and studio access facilities. The Petitioner shall provide an additional access channel in the event the first channel reaches "full capacity" as defined in the ordinance.
12. The Petitioner shall provide the installation and basic monthly service, free of charge, to one outlet in the Borough's schools listed in the ordinance, the Borough public library, Bergen Community College, and all other public buildings in the Borough that exist or may be built as required by the ordinance. Additional outlets shall be paid by the Borough on a fee based on a cost of materials and labor.
13. The Petitioner will encourage access by providing and publicizing production training courses, free of charge to access users in the Borough as stipulated in the ordinance. The Petitioner shall conduct, if requested by the Borough, training courses for access users in the Borough at times scheduled and advertised in advance. The training programs will be geared to a variety of skill levels and the Petitioner will provide the instructor(s) and all necessary equipment for these courses. The Petitioner will increase its outreach and training endeavors by conducting an on-going awareness campaign in various medias to promote the public access training, equipment and programming available in the Borough.
14. The Petitioner shall provide a performance bond of \$50,000.00 for the life of the franchise.

It is to be noted herein that the Borough's municipal consent ordinance requested a bond for the amount of \$50,000.00. The Cable Television Act requires that, within its application for renewal of municipal consent, the Petitioner must include evidence of a commitment for a performance bond in an amount of not less than \$25,000.00, pursuant to N.J.S.A. 48:5A-28(d). Although the municipality must approve the amount, the sufficiency and reasonableness of the performance bond is subject to review by the Office of Cable Television and approval by the Board. The purpose of this performance bond is to ensure all undertakings as promised in the municipal consent application and the ordinance.

The Board is satisfied that there is a need for an additional performance bond for the Borough. The Office of Cable Television reviewed the issue, is satisfied there is a need for an additional performance bond and recommended that the provision for a bond in the amount of \$50,000.00 be approved by the Board. The Borough is served by a competitive operator and is appropriate for a higher performance bond as a contingency. In addition, the Petitioner accepted the ordinance in its entirety. Therefore, this Renewal Certificate of Approval confirms that the Petitioner shall provide a bond in the amount of \$50,000.00, for the life of the franchise.

It is also noted here that certain provisions of the ordinance adopted by the Borough need clarification and/or are in violation of the New Jersey State Cable Act, N.J.S.A. 48:5A-1 et seq. The Office of Cable Television contacted the Borough, however, and it declined to modify the ordinance. Therefore, this Certificate takes exception and clarifies the following provisions:

Section 5. RENEWAL TERM. The term of this renewal shall be pursuant to the terms of the Addendum, which is attached to the ordinance. The addendum states, in part, that "...The term of this renewal is five (5) years (plus five (5) year [sic] of potential additional renewal) for a total term not to exceed 10 years as measured from the date of issuance of a Certificate of Approval by the New Jersey Board of Public Utilities. The conditions for the parameters of the renewal term are those set forth in Section 5(B)(1) and (B)(2) below. Expiration will run from the date of the previous Certificate of Approval and shall be so stipulated in the New Jersey Board of Public Utilities Renewal Certificate." The Borough's ordinance specifies that the expiration date shall be measured from the date of the prior Certificate and the issuance of the additional five years shall be based on the review of the municipal consent ordinance by the Mayor and Borough Council, and the findings shall be forwarded to the Board for appropriate administrative action. It is noted that N.J.S.A. 48:5A-19 allows for an automatic renewal for a term not exceeding 10 years beyond its expiration date and that if so provided within an ordinance, a cable television company shall be entitled to automatic reissuance of a certificate for such term, unless it shall forfeit such entitlement by violation. The Borough has indicated its intention was to utilize an automatic renewal term, and specified the terms for review. However, the ordinance is required to state with "specificity" the term for which the consent applies. Therefore, the Board herein clarifies that this section sets forth the Borough's expiration date was to be based on its prior expiration date and refers to an automatic renewal term and the conditions for review by the municipality.

Section 7. FRANCHISE FEE. This provision of the ordinance states, in relevant part, that the company shall "pay to the Borough two (2%) of gross revenues from all cable television recurring charges, included but not limited to, basic cable service, as defined herein, received by the Company from subscribers to its cable television reception service in the Borough" [emphasis added]. It is noted that pursuant to New Jersey Statute, N.J.S.A. 48:5A-30(a), the Petitioner is required to pay "2% of the gross revenues from all recurring charges in the nature of subscription fees paid by subscribers to its cable television reception service in such municipality." The Borough's ordinance appears to expand this definition. If the Borough had wished to receive a higher franchise fee, it was required to indicate the specific amount or percentage to be received. If the ordinance was then accepted by the Petitioner, the Board would hold a separate proceeding for the provision of a higher franchise fee from the renewal and the Borough would be required to prove to the satisfaction of the Board that the fees above those provided by N.J.S.A. 48:5A-30(a) are "warranted by the expenses of the municipality with respect to the regulation or supervision within its territory of cable television," pursuant to N.J.S.A. 48:5A-30(c). However, the Borough did not specify any additional franchise fees to be paid. Therefore, this Certificate clarifies that the Petitioner shall pay franchise fees pursuant to N.J.S.A. 48:5A-30(a).

Section 9. CONSTRUCTION REQUIREMENTS B. This section states that the Petitioner may not perform the work outlined without "prior approval of the Board." It is not necessary for the Petitioner to obtain approval from the Board in these situations. Therefore, the clause "prior approval of the Board" is not applicable and is stricken.

Section 10. COMMITMENTS BY CABLEVISION OF NEW JERSEY, INC. (B) Customer Service 8. This provision states that the Petitioner will answer telephone calls in a certain manner and dictates technical standards upon the company. The Office of Cable Television is responsible for enforcing technical standards on a cable television operator, and as a result, the Borough is preempted from including this provision. Therefore, this Certificate amends the ordinance accordingly.

Section 10. COMMITMENTS BY CABLEVISION OF NEW JERSEY, INC. (B) Customer Service 11. This provision states that the company will provide parental key lock devices to subscribers who request and pay for such devices. Every cable television company is required to provide parental locks pursuant to state and federal law. However, neither the Borough nor the Office of Cable Television may specify the type of device to be provided. Therefore, this provision is modified to provide that the Petitioner shall provide parental locks but not specify the type of device required.

Section 10. COMMITMENTS BY CABLEVISION OF NEW JERSEY, INC. (B) Customer Service 13. This provision defines service interruptions as loss of picture or sound on one or more cable channel and then mandates repair procedures. N.J.A.C. 14:18-3.13 provides how a cable television company must repair an outage or service interruption. The Office of Cable Television, through the New Jersey Administrative Code, is responsible for enforcing technical standards on a cable television company, and is therefore the Borough may not broaden the requirements of the New Jersey Administrative Code. This Certificate strikes that provision of the ordinance.

Section 18. ADDITIONAL FACILITIES AND SERVICES 6. This provision requires the Petitioner to waive its tariffed rates for downgrading services and is impermissible pursuant to N.J.S.A. 48:5A-39(d) which prohibits cable companies to “make or give, directly or indirectly, any undue preference or advantage to any person, locality or particular description of traffic...” The Petitioner may agree to such a provision, but it would be required to give this advantage to all subscribers regardless of where they live. The Petitioner’s tariff indicates that it currently charges a fee to downgrade services. Therefore, this provision is stricken from the ordinance

Based upon these findings, the Board HEREBY CONCLUDES, pursuant to N.J.S.A. 48:5A-17(a) and 28(c), the Petitioner has the municipal consent necessary to support the petition, that such consent and issuance thereof are in conformity with the requirements of N.J.S.A. 48:5A-1 et seq., that the Petitioner has complied or is ready, willing and able to comply with all applicable rules and regulations imposed by or pursuant to State or federal law as preconditions for engaging in the proposed cable television operations, that the Petitioner has sufficient financial and technical capacity, meets the legal, character and other qualifications necessary to construct, maintain and operate the necessary installations, lines and equipment, and is capable of providing the proposed service in a safe, adequate and proper manner.

Therefore, the Petitioner is HEREBY ISSUED this Renewal Certificate of Approval as evidence of Petitioner’s authority to construct and operate a cable television system within the entirety of the Borough. The entirety of the Borough is also franchised to US Cable of Paramus-Hillsdale, under Docket No. CE98121414, approved by the Board on April 27, 2000.

This Renewal Certificate is subject to all applicable State and federal laws, the rules and regulations of the Office of Cable Television, and any such lawful terms, conditions and limitations as currently exist or may hereafter be attached to the exercise of the privileges granted herein.

The Petitioner shall adhere to the standards set forth by the Federal Communications Commission's rules and regulations, 47 C.F.R. §76.1 et seq., including but not limited to, the technical standards of 47 C.F.R. §76.601 through §76.630. Any modifications to the provisions thereof shall be incorporated into this Certificate.

Failure to comply with all applicable laws, rules, regulations and orders of the Board or Office of Cable Television and/or the terms, conditions and limitations set forth herein may constitute sufficient grounds for the suspension or revocation of this Certificate.

This Renewal Certificate is issued on the representation that the statements contained in the Petitioner's applications are true, and the undertakings therein contained shall be adhered to and enforceable unless specific waiver is granted by the Office of Cable Television pursuant to the authority contained in N.J.S.A. 48:5A-1 et seq.

This Certificate shall expire December 26, 2003.

DATED: November 7, 2002

BOARD OF PUBLIC UTILITIES  
BY:

(signed)

JEANNE M. FOX  
PRESIDENT

(signed)

FREDERICK F. BUTLER  
COMMISSIONER

(signed)

CONNIE O. HUGHES  
COMMISSIONER

(signed)

JACK ALTER  
COMMISSIONER

ATTEST:

(signed)

KRISTI IZZO  
SECRETARY